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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,779	12/30/2003	Eung Don Lee	2013P154	1072
8791 7590 01/16/2009 BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
EXAMINER SHAH, PARAS D				
ART UNIT 2626		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/749,779

Applicant(s)

LEE ET AL.

Examiner

PARAS SHAH

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/04/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is in response to the Amendments and Arguments filed on 11/04/2008. Claims 1-6 are pending and have been examined. The Applicants' amendment and remarks have been carefully considered but they are not persuasive. Accordingly, this action has been made FINAL.
2. All previous objections and rejections directed to the Applicant's disclosure and claims not discussed in this Office Action have been withdrawn by the Examiner.

Response to Arguments

3. Applicant's arguments, see pages 5 and 6, filed on 11/04/2008, with respect to the rejection(s) of claim(s) 1, 3, 4 and 6 under Kim *et al.* in view of SU *et al.* in view of Jabri *et al.* under 103(a) have been fully considered and are moot in view of new grounds for rejection.

The Applicants argue that Su does not disclose that the predicted pitch delay is calculated by applying linear prediction to a plurality of past open-loop pitch delays. The Examiner respectfully disagrees with this assertion. Paragraph [0114] shows an equation for predicting pitch that is based on open-loop pitch delays. Further, it uses a plurality of pitch delays, namely, lag1l is used twice in order to determine the predicted pitch value. Hence, a plurality of pitch values are used, although it being the same delay. Further in paragraph [0562] of SU, lines 7-10, where the past open-loop pitch from a previous and current frame is used to predict a pitch lag for the future frame. is disclosed.

Further, the Applicant argues that there is no motivation to combine Su with Kim to produce a "calculating a difference between the changed closed-loop pitch delay of the SMV decoder and the calculated predicted pitch delay." The Applicants assert that there is no suggestion in Kim that the past closed loop pitch can be replaced by a predicted pitch delay. The Examiner respectfully disagrees with this assertion. A motivation to combine the references was supplied where high quality speech reproduction during speech encoding and decoding (see Su [0002]) results. Further, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Also, there is no requirement that an "express, written motivation to combine must appear in prior art references before a finding of obviousness." See *Ruiz v. A.B. Chance Co.*, 357 F.3d 1270, 1276, 69 USPQ2d 1686,1690 (Fed. Cir. 2004). It should be noted that the closed-loop pitches are normally obtained using the open loop pitch. Cohen (US 6,134,518), col. 4, lines 27-30, which shows that the closed loop pitch delay being obtained using open loop pitch values. Hence, the predicted pitch of Su uses the open loop pitch to determine the predicted pitch and would have been obvious to use the predicted version

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and substituted the past closed loop pitch as taught by Kim as Kim discloses the comparing of two pitch values to determine the open-loop pitch of the destination codec.

Response to Amendment

4. Applicants' amendments filed on 11/04/2008 have been fully considered. The newly amended limitations in claims 1 and 4 necessitate new grounds of rejection. Specifically, the newly added limitation of "applying linear prediction to a *plurality* of past open-loop pitch delays."

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim *et al.* ("An Efficient Transcoding Algorithm for G.723.1 and EVRC Speech Coders") in view of Su *et al.* (US 2001/0023395) in view of Jabri *et al.* (6,829,579).

As to claims 1 and 4, Kim *et al.* teaches an apparatus for converting a pitch delay using linear prediction in speech transcoding, the apparatus comprising: (see page 1562, sect. III, A. Transcoding from G.723.1 to EVRC, lines 1-5)(e.g. The citation describes the linear prediction and the converting of pitch. It should be noted that the conversion from G.723.1 to EVRC transcoding process and system is being referred to

from the reference Kim *et al.* The Kim *et al.* reference shows the inclusion of the same transcoding structure but with more elements. Hence, the reverse can be done as well. Namely, EVRC to G.723.1 as shown in on page 1563, left column, see Figure 2),

a linear interpolating portion (see page 1562, left column, last paragraph-right column, continued paragraph and see Figure 1, LSP transcoder) which linearly interpolates a closed-loop pitch delay to make the closed-loop pitch delay fit in a search section for open-loop pitch delays (see page 1562, sect. III, A. Transcoding from G.723.1 to EVRC, lines 1-5 and page 1562, right column, "Open loop pitch estimation", 1st paragraph, open loop pitch and closed-loop pitch), to thereby obtain a changed closed-loop pitch delay (page 1562, right column, "open loop pitch estimation," 1st paragraph) (e.g. From the previous citation it is obvious that the closed-loop pitch delay will change as a result of interpolation for the open loop pitch as analysis proceeds from frame to frame.);

a difference-calculating portion, which calculates a difference between the changed closed-loop pitch delay and the calculated pitch delay (see page 1562, right column, 2nd paragraph, distance of two pitch values) (e.g. The difference is being calculated in order to determine, whether it is less than a specified threshold);

a comparing portion, which compares the calculated difference with a predetermined threshold value and outputs the result of the comparison (see page 1562, right column, 2nd paragraph, threshold used is 10 samples.);

a pitch delay determining portion, which, when the calculated difference is less than the predetermined threshold value, determines the changed closed-loop pitch delay to be an open-loop pitch delay (page 1562, right column, 2nd paragraph) (e.g. The distance between the pitch is determined and if less than 10 samples then the closed loop pitch is determined).

However, Kim et al. does not specifically disclose the linear prediction of pitch delays based on past delays.

Su et al. does teach a predicted value calculating portion, which calculates a predicted pitch delay by applying linear prediction, to a plurality of past open-loop pitch delays (see page 24, [0112]-[0117], pitch lag prediction computed based on lag11 and see [0562], where the predicted pitch is based on open loop pitch from previous frame and current frame.) (e.g. From the formula, a linear type prediction is used for the prediction of the pitch).

It would have been obvious to one of ordinary skilled in the art at the time the invention was made to have modified the pitch delay conversion for speech transcoding as taught by Kim et al. with the linear prediction of pitch as taught by Su et al.. The motivation to have combined the references involves high quality speech reproduction during speech encoding and decoding (see Su [0002]). Further, based on the calculation of the predicted pitch delay as presented by Su et al., it would have been obvious to one skilled in the art to have substituted this predicted value for the pitch into the pitch conversions methods as taught by Kim et al. for determining the open loop pitch delay of the secondary coder.

However, Kim *et al.* in view of Su *et al.* do not specifically disclose the transcoding being done between a selected mode vocoder and a G.723.1. Further, Kim *et al.* in view of Su do not specifically disclose the use of pitch delay detection, which detects the closed loop pitch delay of the G.723.1.

Jabri *et al.* does teach the conversion between various coders (see col. 6, lines 23-32 and lines 33-46) (e.g. The Jabri *et al.* reference discloses a method of transcoding between various coders) and the use of linear interpolation (see col. 10, lines 21-30 and Figure 17) Further, it should be noted that the Jabri *et al.* reference states the ability to transcode among various coding standards (See col. 13, lines 4-12). Further, Jabri *et al.* discloses a conventional method for detecting closed-loop pitch delay based on open loop pitch (see col. 14, lines 3-7).

It would have been obvious at the time the invention was made to have modified the transcoding scheme presented by Kim *et al.* in view of Su *et al.* with the transcoding among other coders and the use of a pitch delay-detecting unit for detecting a closed-loop delay presented by Jabri *et al.* The motivation to have combined the references involve the transcoding being done between CELP coders and to provide rate control (see Jabri *et al.* col. 6, lines 23-32) as well as a linear interpolator for the transcoding scheme presented by Kim *et al.* so that it can also utilize other coding techniques (SMV to G.723.1). The Kim reference further teaches the transcoding being done between various standards. Specifically, the ITU standard, where an example is the G.723.1 and the TIA

standard, where an example is an EVRC. The SMV is also part of the TIA standard and would have been obvious to substitute an EVRC for an SMV coder to provide a transcoding mechanism. Also, the use of linear interpolator allows compatibility between different coders, which may have different time durations (see Jabri *et al.* col. 10, lines 21-26), which would be apparent in the transcoding scheme presented by Kim *et al.* between coders of different time durations.

As to claims 3 and 6, Kim *et al.* in view of Jabri *et al.* teaches all of the limitations as in claims 1 and 4, above.

Furthermore, Kim *et al.* teaches wherein when the calculated difference is equal to or more than the predetermined threshold value, the pitch delay determining portion determines the closed-loop pitch delay of the G.723.1 speech encoder that is obtained using a conventional method of detecting a open-loop pitch delay of the G.723.1 speech encoder to be the open-loop pitch delay of the G.723.1 speech encoder (see page 1562, right column, "Open-loop pitch estimation," 2nd paragraph) (e.g. The Kim *et al.* reference states that if the distance of the two pitch values are not less than a specified threshold then pitch smoothing is used to find the open-loop pitch delay with the use of the closed-loop pitch delay. The stated process can be done using the transcoding of EVRC to G.723.1 (see page 1563, left column, Figure 2) and hence the stated limitation of the claim has been met.).

7. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim *et al.* in view of Su *et al.* in view of Jabri *et al.* (6,829,579) as applied to claims 1 and 4 above, and further in view of Swaminathan *et al.* (US 5,734,789).

As to claims 2 and 5, Kim *et al.* in view of Su *et al.* in view of Jabri *et al.* teaches all of the limitations as in claims 1 and 4, above.

Furthermore, Kim *et al.* teaches the linear interpolation to translate frame lengths between two codecs of length 30 ms, which corresponds to two frames of G.723.1 (page 1562, sect. III., A. Transcoding from G.723.1 to EVRC, 1st paragraph, and a 2:3 frame ratio is described)).

Furthermore, Jabri *et al.* discloses the interpolation (see col. 10, lines 21-30 and Figure 17) of the pitch delays to obtain a changed closed-loop delay (see col. 12, lines 36-40).

However, Kim *et al.* and Jabri *et al.* do not specifically disclose the extraction of two pitch parameters.

Swaminathan *et al.* does disclose the use of two pitch delays per frame (see col. 5, lines 38-42).

It would have been obvious to one of ordinary skilled in the art at the time the invention was made to have modified the extraction of pitch delays presented by Kim *et al.* in view of Su in view of Jabri *et al.* with the extraction of two pitch delays. The motivation to have combined the references involve the incorporation of a pitch tracking in order to minimize the error of the pitch (see Swaminathan, col. 5, lines 43-52 and col. 6, lines 25-28) as would be appreciated by the pitch

delay determination when transcoding for closer pitch estimates presented by Kim *et al.* with the modifications of Jabri *et al.* Further, the different transcoding schemes define a different duration of a speech signal when using different coding techniques (see Jabri *et al.*, col. 10, lines 42-45) since the translation of frame lengths between two codecs are different and would have been obvious to modify the pitch extraction based on this quality.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cohen(US 6,134,518) is cited to disclose determination of closed loop pitch from open-loop pitch and is referenced in the Response to Arguments section.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PARAS SHAH whose telephone number is (571)270-1650. The examiner can normally be reached on MON.-THURS. 7:00a.m.-4:00p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on (571)272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. S./
Examiner, Art Unit 2626

01/10/2009

/Patrick N. Edouard/

